

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 WILBERT E. BENNETT
Supervising Deputy Attorney General
3 SHANA A. BAGLEY, State Bar No. 169423
Deputy Attorney General
4 1515 Clay Street, 20th Floor
P.O. Box 70550
5 Oakland, CA 94612-0550
Telephone: (510) 622-2129
6 Facsimile: (510) 622-2270

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2006-214

12 **CHRISTOPHER PAUL MIRANNE**
13 4145 Shadow Lane, Apt. 813
Santa Rosa, California 95405

DEFAULT DECISION
AND ORDER

14 Registered Nurse License No. 647803

[Gov. Code, §11520]

15 Respondent.
16

17 **FINDINGS OF FACT**

18 1. On or about December 24, 2008, Complainant Ruth Ann Terry, M.P.H.,
19 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs, filed Petition to Revoke Probation No. 2006-214 against
21 Christopher Paul Miranne (Respondent) before the Board of Registered Nursing.

22 2. On or about November 10, 2004, the Board of Registered Nursing (Board)
23 issued Registered Nurse License No. 647803 to Respondent. The Registered Nurse License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on May
25 31, 2008, unless renewed.

26 3. On or about January 13, 2009, Shontane McElroy, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke
28 Probation No. 2006-214, Statement to Respondent, Notice of Defense, Request for Discovery,

1 and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
2 with the Board, which was and is: 4145 Shadow Lane, Apt. 813, Santa Rosa, California 95405.
3 A copy of the Petition to Revoke Probation is attached as Exhibit "A," and is incorporated herein
4 by reference.

5 4. Service of the Petition to Revoke Probation was effective as a matter of
6 law under the provisions of Government Code section 11505, subdivision (c).

7 5. On or about January 18, 2009, Respondent or someone on behalf of
8 Respondent signed a U.S. Postal Service Certified Mail Receipt, accepting the delivery of the
9 aforementioned documents.

10 6. Government Code section 11506, subdivision (c), states:

11 The respondent shall be entitled to a hearing on the merits if the
12 respondent files a notice of defense, and the notice shall be deemed
13 a specific denial of all parts of the accusation not expressly
14 admitted. Failure to file a notice of defense shall constitute a
15 waiver of respondent's right to a hearing, but the agency in its
16 discretion may nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within 15 days after service
18 upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the
19 merits of Petition to Revoke Probation No. 2006-214.

20 8. California Government Code section 11520, subdivision (a), states:

21 If the respondent either fails to file a notice of defense or to appear
22 at the hearing, the agency may take action based upon the
23 respondent's express admissions or upon other evidence and
24 affidavits may be used as evidence without any notice to
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Board
27 finds Respondent is in default. The Board will take action without further hearing and, based on
28 the evidence on file herein, finds that the allegations in Petition to Revoke Probation No.
2006-214 are true.

10. The total costs for investigation and enforcement in connection with the
Petition to Revoke Probation are \$2,346.50 as of February 5, 2009.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Christopher Paul
3 Miranne has subjected his Registered Nurse License No. 647803 to discipline.

4 2. A copy of the Petition to Revoke Probation is attached.

5 3. The agency has jurisdiction to adjudicate this case by default.

6 4. The Board of Registered Nursing is authorized to revoke Respondent's
7 Registered Nurse License based upon the failure to comply with the following Probation
8 Conditions of the Board's Decision and Order *in the Matter of Accusation Against Christopher*
9 *Paul Miranne*, Case No. 2006-214, as alleged in the Petition to Revoke Probation:

10 a. Condition 4 (Failure to Provide Information on Outside of State Licenses);

11 b. Condition 5 (Failure to Submit Written Reports);

12 c. Condition 14 (Failure to Submit Physical Examination);

13 d. Condition 15 (Failure to Submit Mental Examination); and

14 e. Condition 2 (Failure to Comply with Terms of Probation Program).

15 **ORDER**

16 IT IS SO ORDERED that Registered Nurse License No. 647803, heretofore
17 issued to Respondent Christopher Paul Miranne, is revoked.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may
19 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
20 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
21 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
22 statute.

23 This Decision shall become effective on July 8, 2009.

24 It is so ORDERED June 8, 2009

25 *Suzanne Phillips MSN, RN, FNP-BC*

26 FOR THE BOARD OF REGISTERED NURSING
27 DEPARTMENT OF CONSUMER AFFAIRS
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1 DOJ docket number:SF2008401694

2 Exhibit A: Petition to Revoke Probation No.2006-214

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Exhibit "A"

Petition to Revoke Probation No. 2006-214

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 WILBERT E. BENNETT
Supervising Deputy Attorney General
3 SHANA A. BAGLEY, State Bar No. 169423
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4 1515 Clay Street, 20th Floor
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2006-214

12 **CHRISTOPHER PAUL MIRANNE**
13 4145 Shadow Lane, Apt. 813
Santa Rosa, CA 95405

**PETITION TO REVOKE
PROBATION**

14 Registered Nurse License No. 647803

15 Respondent.

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17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Petition to Revoke Probation solely in her official
20 capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of
21 Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about November 10, 2004, the Board issued Registered Nurse
24 License No. 647803 ("license") to Christopher Paul Miranne ("Respondent"). The license
25 expired on May 31, 2008.

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1 3. Code section 118, subdivision (b), states:

2 The suspension, expiration, or forfeiture by operation of law of a
3 license issued by a board in the department, or its suspension,
4 forfeiture, or cancellation by order of the board or by order of a
5 court of law, or its surrender without the written consent of the
6 board, shall not, during any period in which it may be renewed,
7 restored, reissued, or reinstated, deprive the board of its authority
8 to institute or continue a disciplinary proceeding against the
9 licensee upon any ground provided by law or to enter an order
10 suspending or revoking the license or otherwise taking disciplinary
11 action against the licensee on any such ground.

12 4. Code section 2750 provides, in pertinent part, that the Board may
13 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
14 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

15 5. Code section 2764 provides, in pertinent part, that the expiration of a
16 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
17 against the licensee or to render a decision imposing discipline on the license. Under Code
18 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
19 years after the expiration.

20 **FIRST CAUSE TO REVOKE PROBATION**

21 **(Failure to Provide Information on Outside of State Licenses)**

22 6. At all times after the effective date of Respondent's probation, Condition 4
23 states, in pertinent part:

24 **Residency, Practice, or Licensure Outside of State.**

25 Respondent shall provide a list of all states and territories where he
26 has ever been licensed as a registered nurse, vocational nurse, or
27 practical nurse. Respondent shall further provide information
28 regarding the status of each license and any changes in such license
 status during the term of probation. Respondent shall inform the
 Board if he applies for or obtains a new nursing license during the
 term of probation.

 7. Respondent's probation is subject to revocation in that he failed to comply
 with Probation Condition 4, as follows:

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1 a. Respondent failed to provide the Board with a list of all states and
2 territories where he has ever been licensed as a registered nurse, vocational nurse, or practical
3 nurse.

4 b. Respondent failed to provide the Board with information regarding the
5 change in status of his Alabama Registered Nurse License No. 1-076413, which was revoked on
6 September 21, 2007.

7 **SECOND CAUSE TO REVOKE PROBATION**

8 **(Failure to Submit Written Reports)**

9 8. At all times after the effective date of Respondent's probation,
10 Condition 5, states, in pertinent part:

11 **Submit Written Reports.**

12 Respondent, during the period of probation, shall submit or cause
13 to be submitted such written reports/declarations and verification
14 of actions under penalty of perjury, as required by the Board.
15 These reports/declarations shall contain statements relative to
16 Respondent's compliance with all the conditions of the Board's
17 Probation Program.

18 9. Respondent's probation is subject to revocation because he failed to
19 submit the required Quarterly Reports for October through December 2007, January through
20 March 2008, April through June 2008, and July through September 2008.

21 **THIRD CAUSE TO REVOKE PROBATION**

22 **(Failure to Submit Physical Examination)**

23 10. At all times after the effective date of Respondent's probation,
24 Condition 14, states, in pertinent part:

25 **Physical Examination.**

26 Within 45 days of the effective date of this decision, Respondent,
27 at his expense, shall have a licensed physician, nurse practitioner,
28 or physician assistant, who is approved by the Board before the
assessment is performed, submit an assessment of the Respondent's
physical condition and capability to perform the duties of a
registered nurse, including the determination as set forth below in
Condition 16, "Rule-Out Substance Abuse Assessment." Such an
assessment shall be submitted in a format acceptable to the Board.
If medically determined, a recommended treatment program will
be instituted and followed by the Respondent with the physician,

nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

11. Respondent's probation is subject to revocation because he failed to submit to a physical examination.

FOURTH CAUSE TO REVOKE PROBATION

(Failure to Submit Mental Examination)

12. At all times after the effective date of Respondent's probation, Condition 15, states, in pertinent part:

Mental Health Exam.

The Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his capability to perform the duties of a registered nurse, including a determination, as set forth below in Condition 16, "Rule-Out Substance Abuse Assessment." The examination must be performed by a psychiatrist, psychologist or other licensed mental health practitioner, approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendation to the Board. All costs are the responsibility of the Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the Respondent.

13. Respondent's probation is subject to revocation because he failed to submit to a mental examination.

FIFTH CAUSE TO REVOKE PROBATION

(Failure to Comply with Terms of Probation Program)

14. At all times after the effective date of Respondent's probation, Condition 2 states, in pertinent part:

Comply with the Board's Probation Program.

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

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15. Respondent's probation is subject to revocation in that he failed to comply with Probation Condition 2, as follows:

a. Respondent failed to maintain an active, current license status with the Board by allowing his license to expire on May 31, 2008, as further set forth in Paragraph 2, above.

b. Respondent failed to comply the Board's Probation Program, by failing to comply with Probation Conditions Nos. 4, 5, 14, and 15, as more fully set forth above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board of Registered Nursing in Case No. 2006-214, and imposing the disciplinary order that was stayed thereby revoking Registered Nurse License No. 647803, issued to Christopher Paul Miranne;

2. Revoking or suspending Registered Nurse License No. 647803, issued to Christopher Paul Miranne; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 12/24/08

Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

Exhibit "A"

Decision and Order

Board of Registered Nursing Case No. 2006-214

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CHRISTOPHER PAUL MIRANNE
120 Cielo Lane, Apt 204
Novato, CA 94607

Registered Nurse License No. 647803

Respondent

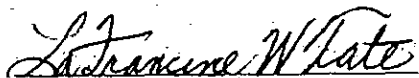
Case No. 2006-214

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on April 2, 2007.

IT IS SO ORDERED March 1, 2007.



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 WILBERT E. BENNETT
Supervising Deputy Attorney General
3 SHANA A. BAGLEY, State Bar No. 169423
Deputy Attorney General
4 California Department of Justice
1515 Clay Street, 20th Floor
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7 Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **CHRISTOPHER PAUL MIRANNE**
13 120 Cielo Lane, Apt 204
14 Novato, CA 94607

15 Registered Nurse License No. 647803

16 Respondent.

Case No. 2006-214

OAH No. 2006070366

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Shana
24 A. Bagley, Deputy Attorney General.

25 2. Respondent Christopher Paul Miranne is represented in this proceeding by
26 attorney Robert F. Hahn, whose address is: Gould & Hahn, 5801 Christie Avenue, Suite 385,
27 Emeryville, CA 94608.

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1 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
2 action between the parties, and the Board shall not be disqualified from further action by having
3 considered this matter.

4 12. The parties understand and agree that facsimile copies of this Stipulated
5 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
6 force and effect as the originals.

7 13. In consideration of the foregoing admissions and stipulations, the parties
8 agree that the Board may, without further notice or formal proceeding, issue and enter the
9 following Disciplinary Order:

10 **DISCIPLINARY ORDER**

11 IT IS HEREBY ORDERED that Registered Nurse License No. 647803 issued to
12 Respondent is revoked. However, the revocation is stayed and Respondent is placed on
13 probation for three (3) years on the following terms and conditions.

14 **Severability Clause.** Each condition of probation contained herein is a separate
15 and distinct condition. If any condition of this Order, or any application thereof, is declared
16 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
17 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
18 and enforceable to the fullest extent permitted by law.

19 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
20 A full and detailed account of any and all violations of law shall be reported by Respondent to
21 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
22 compliance with this condition, Respondent shall submit completed fingerprint forms and
23 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
24 as part of the licensure application process.

25 **Criminal Court Orders:** If Respondent is under criminal court orders, including
26 probation or parole, and the order is violated, this shall be deemed a violation of these probation
27 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

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2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment.

Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with

1 a full explanation of the circumstances surrounding the termination or separation.

2 8. **Supervision.** Respondent shall obtain prior approval from the Board
3 regarding Respondent's level of supervision and/or collaboration before commencing or
4 continuing any employment as a registered nurse, or education and training that includes patient
5 care.

6 Respondent shall practice only under the direct supervision of a registered nurse
7 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
8 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
9 are approved.

10 Respondent's level of supervision and/or collaboration may include, but is not
11 limited to the following:

12 (a) Maximum - The individual providing supervision and/or collaboration is
13 present in the patient care area or in any other work setting at all times.

14 (b) Moderate - The individual providing supervision and/or collaboration is in
15 the patient care unit or in any other work setting at least half the hours Respondent works.

16 (c) Minimum - The individual providing supervision and/or collaboration has
17 person-to-person communication with Respondent at least twice during each shift worked.

18 (d) Home Health Care - If Respondent is approved to work in the home health
19 care setting, the individual providing supervision and/or collaboration shall have person-to-
20 person communication with Respondent as required by the Board each work day. Respondent
21 shall maintain telephone or other telecommunication contact with the individual providing
22 supervision and/or collaboration as required by the Board during each work day. The individual
23 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
24 site visits to patients' homes visited by Respondent with or without Respondent present.

25 9. **Employment Limitations.** Respondent shall not work for a nurse's
26 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
27 traveling nurse, or for an in-house nursing pool.

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Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,800.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with

1 this condition, and if no other conditions have been violated, the Board, in its discretion, may
2 grant an extension of Respondent's probation period up to one year without further hearing in
3 order to comply with this condition. During the one year extension, all original conditions of
4 probation will apply.

5 **12. Violation of Probation.** If Respondent violates the conditions of his
6 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
7 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
8 license.

9 If during the period of probation, an accusation or petition to revoke probation has
10 been filed against Respondent's license or the Attorney General's Office has been requested to
11 prepare an accusation or petition to revoke probation against Respondent's license, the
12 probationary period shall automatically be extended and shall not expire until the accusation or
13 petition has been acted upon by the Board.

14 **13. License Surrender.** During Respondent's term of probation, if he ceases
15 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
16 probation, Respondent may surrender his license to the Board. The Board reserves the right to
17 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
18 take any other action deemed appropriate and reasonable under the circumstances, without
19 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
20 will no longer be subject to the conditions of probation.

21 Surrender of Respondent's license shall be considered a disciplinary action and
22 shall become a part of Respondent's license history with the Board. A registered nurse whose
23 license has been surrendered may petition the Board for reinstatement no sooner than the
24 following minimum periods from the effective date of the disciplinary decision:

25 (1) Two years for reinstatement of a license that was surrendered for any
26 reason other than a mental or physical illness; or

27 (2) One year for a license surrendered for a mental or physical illness.

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1 14. **Physical Examination.** Within 45 days of the effective date of this
2 decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
3 physician assistant, who is approved by the Board before the assessment is performed, submit an
4 assessment of the Respondent's physical condition and capability to perform the duties of a
5 registered nurse, including the determination as set forth below in Condition 16, "Rule-Out
6 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
7 the Board. If medically determined, a recommended treatment program will be instituted and
8 followed by the Respondent with the physician, nurse practitioner, or physician assistant
9 providing written reports to the Board on forms provided by the Board.

10 If Respondent is determined to be unable to practice safely as a registered nurse,
11 the licensed physician, nurse practitioner, or physician assistant making this determination shall
12 immediately notify the Board and Respondent by telephone, and the Board shall request that the
13 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
14 immediately cease practice and shall not resume practice until notified by the Board. During this
15 period of suspension, Respondent shall not engage in any practice for which a license issued by
16 the Board is required until the Board has notified Respondent that a medical determination
17 permits Respondent to resume practice. This period of suspension will not apply to the reduction
18 of this probationary time period.

19 If the Respondent fails to have the above assessment submitted to the Board
20 within the 45-day requirement, Respondent shall immediately cease practice and shall not resume
21 practice until notified by the Board. This period of suspension will not apply to the reduction of
22 this probationary time period. The Board may waive or postpone this suspension only if
23 significant, documented evidence of mitigation is provided. Such evidence must establish good
24 faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must
25 be provided. Only one such waiver or extension may be permitted.

26 15. **Mental Health Exam.** The Respondent shall, within 45 days of the
27 effective date of this decision, have a mental health examination including psychological testing
28 as appropriate to determine his capability to perform the duties of a registered nurse, including a

determination as set forth below in Condition 16, "Rule-Out Substance Abuse Assessment." The examination must be performed by a psychiatrist, psychologist or other licensed mental health practitioner, approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the Respondent

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's Office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified in writing by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone the suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the Respondent to obtain assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

16. Rule-out Substance Abuse Assessment. If the examiner conducting the physical and/or mental health examination determines that the Respondent is dependent upon drugs or alcohol, or has had problems with drugs or alcohol (i.e., drug dependence in remission or alcohol dependence in remission), that might reasonably affect the safe practice of nursing, then the Respondent must further comply with the following additional terms and conditions of probation.

(A) **Participate in Treatment/Rehabilitation Program for Chemical Dependence.** Respondent, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

(B) **Abstain From Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood-altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled

1 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
2 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
3 condition. If any substances considered addictive have been prescribed, the report shall identify a
4 program for the time limited use of any such substances.

5 The Board may require the single coordinating physician, nurse practitioner, or
6 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
7 addictive medicine.

8 (C) **Submit to Tests and Samples.** Respondent, at his expense, shall
9 participate in a random, biological fluid testing or a drug screening program which the Board
10 approves. The length of time and frequency will be subject to approval by the Board. The
11 Respondent is responsible for keeping the Board informed of Respondent's current telephone
12 number at all times. Respondent shall also ensure that messages may be left at the telephone
13 number when he is not available and ensure that reports are submitted directly by the testing
14 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
15 to the Board by the program and the Respondent shall be considered in violation of probation.

16 In addition, Respondent, at any time during the period of probation, shall fully
17 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
18 tests and samples as the Board or its representatives may require for the detection of alcohol,
19 narcotics, hypnotics, dangerous drugs, or other controlled substances.

20 If Respondent has a positive drug screen for any substance not legally authorized
21 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
22 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
23 from practice pending the final decision on the petition to revoke probation or the accusation.
24 This period of suspension will not apply to the reduction of this probationary time period.

25 If Respondent fails to participate in a random, biological fluid testing or drug
26 screening program within the specified time frame, the Respondent shall immediately cease
27 practice until notified by the Board. After taking into account documented evidence of
28 mitigation, if the Board files a petition to revoke probation or an accusation, the Board may

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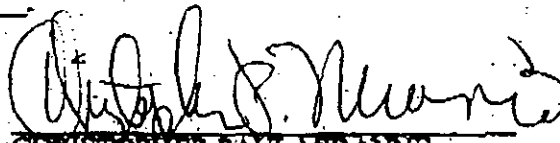
1 suspend Respondent from practice pending the final decision on the petition to revoke probation
2 or the accusation. This period of suspension will not apply to the reduction of this probationary
3 time period.

4 (D) Therapy or Counseling Program. Respondent, at his expense, shall
5 participate in an on-going counseling program until such time as the Board releases him from this
6 requirement and only upon the recommendation of the counselor. Written progress reports from
7 the counselor will be required at various intervals.

8 **ACCEPTANCE**

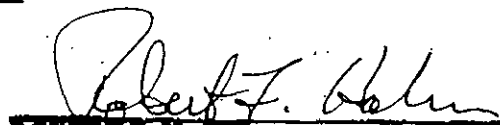
9 I have carefully read the above Stipulated Settlement and Disciplinary Order and
10 have fully discussed it with my attorney, Robert F. Hahn. I understand the stipulation and the
11 effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and
12 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
13 Decision and Order of the Board of Registered Nursing.

14 DATED: 12/8/06

15 
16 CHRISTOPHER PAUL MIRANNE
17 Respondent

18
19 I have read and fully discussed with Respondent Christopher Paul Miranne the
20 terms and conditions and other matters contained in the above Stipulated Settlement and
21 Disciplinary Order. I approve its form and content.

22 DATED: 12-8-06

23 
24 ROBERT F. HAHN
25 Attorney for Respondent

26
27 ///

28 ///

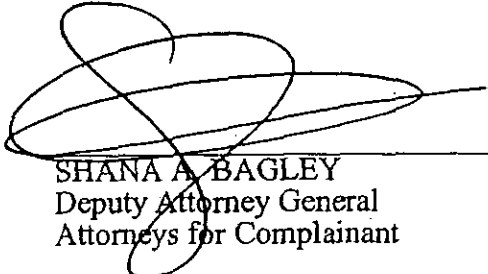
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 12.11.06

BILL LOCKYER, Attorney General
of the State of California

WILBERT E. BENNETT
Supervising Deputy Attorney General



SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 2006-214

BILL LOCKYER, Attorney General
of the State of California
SHANA A. BAGLEY, State Bar No. 169423
Deputy Attorney General
California Department of Justice
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2129
Facsimile: (510) 622-2270

Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2006-214

CHRISTOPHER PAUL MIRANNE
121 Embarcadero West, Apt. 2317
Oakland, California 94607

ACCUSATION

Registered Nurse License No. 647803

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about November 10, 2004, the Board of Registered Nursing issued Registered Nurse License Number 647803 to Christopher Paul Miranne (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2006, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

Statutory Provisions

4. Section 141 of the Code states:

“(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 of the Code states, in pertinent part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or

territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action. . . .”

7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

Cost Recovery

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by Another State)

9. Respondent is subject to disciplinary action under section 2761(a)(4) of the Code in that on or about February 25, 2005, the Vermont State Board of Nursing issued a disciplinary decision restricting his registered nursing license for two years. (A copy of said disciplinary action, which became effective on March 7, 2005, is attached hereto as Exhibit “A” and is herein incorporated by reference as though fully set forth.) The circumstances are as follows:

a. The disciplinary proceeding was entitled In Re: Christopher Paul Miranne, State of Vermont Board of Nursing, Case File No. NU75-0404, and imposed license restrictions based upon findings of: unprofessional conduct (unsafe or unacceptable patient care, making false or inaccurate clinical record entries, discontinuing a physician’s order, and acting without a

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physician's order where required); and making several charting errors regarding medication (including Percocet and Ambien') in the course of a few days.

b. In the same disciplinary proceeding, Respondent was ordered to contact the Vermont State Board of Nursing within thirty days of the date of entry of the order or his license would be indefinitely suspended. Respondent failed to comply with the terms of the order and his Registered Nurse License was indefinitely suspended.

PRAYER

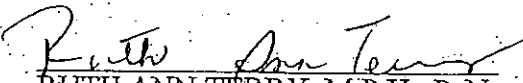
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 647803, issued to Christopher Paul Miranne;

2. Ordering Christopher Paul Miranne to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/8/06


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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1. Percocet is a Schedule II narcotic controlled substance and Ambien is a Schedule IV controlled substance, pursuant to Health and Safety Code sections 11007, 11055(a), 11055(b)(1)(N); 11057(a), and 11057(d)(32). Both are "dangerous drugs" as defined by section 4022 of the Code as they cannot be dispensed without a prescription, pursuant to Health and Safety Code section 11158.

EXHIBIT A

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the State. Christopher Miranne (the Respondent) was not present.

promoting commerce — the intention of the act is to

to forward, address not known.

Figure 1. Comparison of the two models.

1. The Respondent, Christopher Paul Miranne, is licensed in the State of Vermont as a Registered Nurse under License Number 026-0029061.

2. The Respondent was originally licensed on December 23, 2003 and the Respondent's license is currently set to expire on March 31, 2005.

3. At all times relevant, the Respondent was employed under a traveling nurse contract assignment at Fletcher Allen Health Care located in Burlington, Vermont.

4. On March 3, 2004, the Respondent, without notifying the physician, discontinued patient R.R.'s 14 gauge Foley catheter and placed a larger 18 gauge catheter when the Respondent observed it to be leaking. This placement caused trauma to R.R.'s urethra, which resulted in clots and blood in R.R.'s urine. A 16 gauge catheter was available to the Respondent.

5. Subsequently, the Respondent notified the physician and requested that a hematocrit be drawn, which the physician ordered as well as a flush of the bladder to attempt to remove blood clots. The flush did not return, indicating that there was a clot blocking the catheter. The Respondent then, without notifying the physician or receiving further instructions, removed the catheter and placed a Texas catheter on the patient.

6. On April 7, 2004, the Respondent failed to chart in the medication administration record the dosage amount of Ambien that the Respondent gave to patient T.M. at 10:30 p.m.

7. The Respondent did initial the chart, which indicated only one dosage amount. His initials indicate that he gave the medication as ordered because there was no multiple choice as to dosage amount.

8. On April 9, 2004, the Pyxis report indicated that the Respondent withdrew one tablet of Ambien for patient T.M. However, the Respondent did not document in the medication administration record that he gave this tablet to T.M.

9. The Respondent believes his electronic signature on the Pyxis machine should suffice and that his failure to document on the medication administration record should thus be excused.

10. On April 8, 2004, the Pyxis report indicated that the Respondent withdrew 3 tablets of Percocet for patient B.G. However, the medication administration record for B.G. indicates that only one tablet was given. The Respondent advised State Investigator Jackie Cholewa that he had a heavy patient load, 4 to 5 patients and he "probably gave them to another patient."

11. The Respondent asserts that the other two tablets were returned to the Pyxis. If true, this was not documented or explained in any way.

12. On April 8, 2004, the medication administration record for patient N.L. indicated that the Respondent gave patient N.L. two tablets of Percocet at 10:30 p.m. However, the Pyxis report does not show any Percocet tablets withdrawn for N.L. by the Respondent at or anytime around 10:30 p.m.

13. In his answer, the Respondent admits this was a mistaken entry on N.L.'s record.

14. On April 11, 2004, the Pyxis report indicated that the Respondent withdrew two tablets of Acetaminophen for patient A.P. However, the Respondent did not document in the medication administration record that he gave these tablets to A.P.

15. Again for this charge, the Respondent asserts that his electronic signature via

Pyxis should suffice and that a written medication administration record is unnecessary.

16. On April 11, 2004, the Pyxis report indicated that the Respondent withdrew one tablet of Ambien for patient T.M. The Respondent documented the medication administration record as having given T.M. the Ambien, however, the Respondent then crossed it off stating "error."

17. The Respondent states that the patient refused this medication and that he charted the wasting of the medication. The charting codes indicate that he should have used the code "E" for refuses medication. The Respondent failed to document wasting of the medication by simply writing "error."

Conclusions of Law

1. The Board of Nursing may revoke, suspend, discipline or otherwise condition the license of a nurse who engages in unprofessional conduct as defined by 26 V.S.A. §1582 or 3 V.S.A. §129a, which includes any violation of the Board of Nursing Administrative Rules (3 V.S.A. §129a(a)(3). Failing to comply with the provisions of state statutes or rules governing the practice of the profession).

2. The Respondent, by his actions as described above, committed unprofessional conduct constituting grounds for discipline because Respondent violated:

A. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and

B. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public) which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(4).

3. More specifically, the Respondent made several charting errors in the course of a few days, those detailed in the State's Specification of Charges at Paragraphs 13-17. The Charge at Paragraph 12 was proved but does not constitute unprofessional conduct.

4. Additionally, the Respondent committed unprofessional conduct by discontinuing a physician's order, attempting to insert another catheter without a physician's order and eventually using a different catheter, all without further instructions from a physician. This was outside the Respondent's scope of practice.

Opinion

The Respondent's errors were pervasive and his attitude distressing. The Board does not agree with his contention that a Pyxis electronic signature is enough charting of medication administration without further entry on the medication administration record. His practice was careless and he does not appear to comprehend the seriousness of his errors in judgement. The Board is also very much concerned that he would go outside his scope of practice without consulting a physician and that the Respondent's charting errors will continue. Therefore, conditions on the Respondent's license are deemed appropriate, as detailed below.

Order

A. The Board of Nursing hereby CONDITIONS Respondent's license for A MINIMUM OF TWO (2) YEARS from the date of entry of this Order. Because the Respondent was not present for the hearing and did not contact the Office regarding his absence, the Board understands that imposition of conditions may be inappropriate if the Respondent cannot be found. Therefore, the Respondent must contact the Board within THIRTY (30) DAYS of the date of entry of this Order to acknowledge receipt of this Order and his acceptance of these conditions.

B. Should he fail to contact the Board within 30 days, his license will be INDEFINITELY SUSPENDED until such time as he contacts the Board and requests reinstatement under conditions similar to those set forth below. The CONDITIONS are as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes two (2) years of supervised nursing practice in which Respondent works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Medication Administration Course

Respondent must complete (i.e.: receive a passing grade, if applicable) a course on medication administration and documentation, with prior approval by the Board or its designee. The courses must be completed within six months of the date of entry of this Order.

(3) Notification to Employers.

Respondent shall provide a copy of this Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Order or of any subsequent employment, Respondent shall cause Respondent's immediate supervisor to write

to the Board, on the employer's letterhead, acknowledging receipt of the Order and the ability to comply with its conditions.

(4) Reports from Employers.

Within one (1) month of the date of entry of this Order and monthly thereafter, Respondent shall cause every employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's performance and attendance during that time period. This report shall be submitted in writing on forms issued by the Board.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Order and ability of the program to comply with the conditions in the Order during clinical experience.

Respondent shall sign a consent, upon request of the Board, to authorize Respondent's employer to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Order is in effect.

(5) Practice Under Supervision.

Respondent shall practice only in a setting where Respondent has on-site supervision for the entire shift by a registered nurse that is licensed and in good standing.

(6) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a personal care provider during the effective period of this Order.

(7) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice as a nurse in the State of Vermont.

(8) Costs.

Respondent shall bear all costs of complying with this Order.

(9) Violation of the Order.

If Respondent violates the terms of this Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the

conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Order, the conditional license period shall be extended until the matter is final.

(10) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on his license and after formal review by the Board, Respondent's nursing license may be formally restored by appropriate Board action. Respondent shall demonstrate, to the Board's satisfaction that Respondent fully complied with all the terms of this Order. If the Respondent demonstrates to the Board's satisfaction that he has complied with all of his conditions, then any and all conditions shall be removed.

C. This Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

D. This Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By:

Susan Farrell
Susan Farrell, R.N.
Chair

Date:

Feb. 25, 2005

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 3/7/05